

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RAFAEL FIGUEROA,

Civil No.: 19-cv-210 (RA)

Plaintiff,

-against-

**AFFIDAVIT FOR
JUDGMENT BY
DEFAULT**

IRENE YAGUDAEV and SOLOMON YAGUDAEV,

Defendants.
-----X

IRENE YAGUDAEV and SOLOMON YAGUDAEV,

Third-Party Plaintiffs,

- against -

NRG MAGIC CONSTRUCTION INC.,

Third-Party Defendant,
-----X

STATE OF NEW YORK)
)
COUNTY OF NASSAU)

ss.:

Anna Bangiyev, Esq., being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and am associated with the firm of BRAND, GLICK & BRAND, P.C., attorneys for the Defendants/ Third-Party Plaintiffs, IRENE YAGUDAEV and SOLOMON YAGUDAEV, in the above-captioned matter and I am familiar with all the facts and circumstances in this action.

2. I make this affidavit pursuant to Federal Rules of Civil Procedure 55(b)(2) and Local Rule 55.2(b) in support of the Defendants/ Third-Party Plaintiffs' application for the entry of a default judgment against Third-Party Defendant, NRG MAGIC CONSTRUCTION INC.

3. This action is a personal injury action arising out of a construction accident which allegedly occurred on October 20, 2017 at the property located at 110-48 Jewel Avenue, in the County of Queens, City and State of New York.

4. This action was commenced on November 19, 2018 by Plaintiff, RAFAEL FIGUEROA, with the filing of a Summons and Complaint in the Bronx County Supreme Court, Index No.: 33227/2018E.

5. The issue was joined by filing an Answer by the Defendants, IRENE YAGUDAEV and SOLOMON YAGUDAEV, on or about December 24, 2018.

6. This action was removed from Supreme Court, County of Bronx and transferred to the United States District Court for the Southern District of New York with the Notice of Removal filed on January 8, 2019, Doc. # 1. (See, Exhibit 1).

7. An Initial Pretrial Conference in this matter was held on February 21, 2019 and a Case Management Plan and Scheduling Order was entered by this Court directing that no additional parties may be joined after April 30, 2019 without leave of the Court. Doc.#7. (See, Exhibit 2).

8. A Third-Party action was commenced on March 8, 2019 by Defendants/ Third-Party Plaintiffs, IRENE YAGUDAEV and SOLOMON YAGUDAEV, with the filing of a Third-Party Summons and Complaint, Doc. # 10-15. (See, Exhibit 3).

9. A copy of the Third-Party Summons and Complaint was served on the Third-Party Defendant, NRG MAGIC CONSTRUCTION INC., on April 4, 2019 by personally serving Nancy Dougherty, a clerk in the office of the Secretary of State of New York in the City of Albany, and proof of service was therefore filed on April 8, 2019, Doc. # 16 and 17. (See, Exhibit 4).

10. The time for the Third-Party Defendant, NRG MAGIC CONSTRUCTION INC., to answer or otherwise move with respect to the complaint herein has expired.

11. The Third-Party Defendant, NRG MAGIC CONSTRUCTION INC., has not answered or otherwise moved with respect to the Third-Party complaint, and the time for Third-Party Defendant, NRG MAGIC CONSTRUCTION INC., to answer or otherwise move has not been extended.

12. On August 23, 2019 a Certificate of Default from the Clerk of Court was issued in this matter. Doc. # 22. (See, Exhibit 5).

13. The Defendants/ Third-Party Plaintiffs, IRENE YAGUDAEV and SOLOMON YAGUDAEV, seek a Default Judgment against Third-Party Defendant, NRG MAGIC CONSTRUCTION INC., for an undetermined amount which will not be known until primary litigation action is resolved.


WHEREFORE, the Defendants/ Third-Party Plaintiffs, IRENE YAGUDAEV and SOLOMON YAGUDAEV, request the entry of Default and the entry of the annexed Default Judgment against Third-Party Defendant, NRG MAGIC CONSTRUCTION INC., with an inquest to be held at the time of trial.

Dated: Garden City, New York
August 26, 2019

By: _____

ANNA BANGIYEV

Sworn to before me this
26th day of August, 2019.


Notary Public

KENNETH FINKELSTEIN
Notary Public, State of New York
No. 30-4950750
Qualified in Nassau County
Commission Expires May 8, 2023